

joint trustees, for the purpose of liquidating the affairs of the committee. Action by such trustees shall require the concurrence of a majority of said trustees. Such trustees shall continue in such capacity until discharged by the Secretary, and shall account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such persons as the Secretary may direct; and shall upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all the funds, properties, and claims vested in the committee or the joint trustees, pursuant to this agreement. Any person to whom funds, property, or claims have been transferred or delivered by the committee or the joint trustees, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon said joint trustees.

§ 998.59 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this agreement or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

- (a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise, in connection with any provisions of this agreement or any regulation issued thereunder, or
- (b) Release or extinguish any violation of this agreement or any regulation issued thereunder, or
- (c) Affect or impair any rights or remedies of the Secretary, or of any other persons, with respect to such violation.

§ 998.60 Counterparts.

This agreement may be executed in multiple counterparts and, when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

§ 998.61 Additional parties.

After the effective date of this agreement, any handler may become a party hereto if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and such party has complied with assessment obligations and the quality regulations applicable to the current crop. The benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting part.

IMPLEMENTING REGULATIONS

§ 998.100 Incoming quality regulation for 1995 and subsequent crop peanuts.

The following modify § 998.5 of the peanut marketing agreement and modify or are in addition to the restrictions of section 31 on handler receipts or acquisitions of peanuts:

(a) *Modification of § 998.5, paragraphs (b), (c), and (d).* Paragraphs (b), (c), and (d) of § 998.5 of the peanut marketing agreement are modified for the purposes of this section as to farmers' stock peanuts to read respectively as follows:

(b) *Segregation 1. Segregation 1 peanuts* means farmers' stock peanuts with not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

(c) *Segregation 2. Segregation 2 peanuts* means farmers' stock peanuts with more than 2 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

(d) *Segregation 3. Segregation 3 peanuts* means farmers' stock peanuts with visible *Aspergillus flavus*.

(b) *Moisture and foreign material.*

(1) *Moisture.* Except as provided under paragraph (e), *Seed Peanuts*, no handler shall receive or acquire peanuts containing more than 10.49 percent moisture: *Provided*, That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storing or milling. On farmer's stock, such moisture determinations shall be rounded to the

nearest whole number; or shelled peanuts, the determinations shall be carried to the hundredths place and shall not be rounded to the nearest whole number.

(2) *Foreign material.* No handler shall receive or acquire farmers' stock peanuts containing more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be received or acquired if they are held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term *sand-screen* means any type of farmers' stock cleaner which, when in use, removes sand and dirt.

(c) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers' stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(d) *Loose shelled kernels.* (1) No handler shall receive or acquire farmers' stock peanuts containing more than 14.49 percent loose shelled kernels, except that peanuts having a higher loose shelled kernel content may be received or acquired if they are held separately until milled or shipped directly to a plant for prompt shelling. All percentage determinations shall be rounded to the nearest whole number. Handlers may separate from the loose shelled kernels received with farmers' stock peanuts those sizes of kernels which ride screens with the following or larger slot openings: Runner— $1\frac{5}{64}$ x $\frac{3}{4}$ inch; Spanish and Valencia— $1\frac{5}{64}$ x $\frac{3}{4}$ inch; Virginia— $1\frac{5}{64}$ x 1 inch. If so separated, those loose shelled kernels which ride the screens may be included with shelled peanuts prepared by the handler for inspection and sale for human consumption: *Provided*, That no more than 5 percent of such loose shelled kernels are kernels which would fall through screens with such minimum prescribed openings. Those loose shelled kernels which do not ride the screens shall be removed from the farmers' stock peanuts and shall be held separate and apart from other peanuts and disposed of for inedible use as provided in paragraph (g) of the outgoing quality regulation. If the kernels which ride the prescribed screens are not separated from the kernels which

do not ride the prescribed screens, the entire amount of loose shelled kernels shall be removed from farmers' stock peanuts and shall be so held and so delivered or disposed of. For the purpose of this regulation, the term *loose shelled kernels* means peanut kernels or portions of kernels completely free of their hulls and found in deliveries of farmers' stock peanuts.

(2) Each handler shall be required to submit to the Committee a flow chart for each plant operation diagramming the procedures and equipment used in the removal of loose shelled kernels and in the processing of splits. Upon any subsequent changes in flow, procedures, or equipment, the handler shall submit to the Committee a revised flow chart reflecting those changes.

(e) *Seed peanuts.* A handler may acquire and deliver for seed purposes farmers' stock peanuts which meet the requirements of Segregation 1 peanuts. If the seed peanuts are produced under the auspices of a State agency which regulates or controls the production of seed peanuts, they may contain up to 3 percent damaged kernels and have visible *Aspergillus flavus*, and, in addition, the following moisture content, as applicable:

(1) For such seed peanuts produced in the Southeastern and Virginia-Carolina areas, they may contain up to 10.49 percent moisture except Virginia type peanuts which are not stacked at harvest time may contain up to 11.49 percent moisture; and

(2) For seed peanuts produced in the Southwestern area, they may contain up to 10.49 percent moisture.

However, any such seed peanuts with visible *Aspergillus flavus* shall be stored and shelled separate from other peanuts, and any residual not used for seed shall not be used or disposed of for human consumption unless it is determined to be wholesome by chemical assay for aflatoxin. A handler whose operations include custom seed shelling may receive, custom shell, and deliver for seed purposes farmers' stock peanuts, and such peanuts shall be exempt from the Incoming Quality Regulation requirements and, therefore, shall not be required to be inspected and certified as meeting the Incoming Quality Regulation requirements, and

the handler shall report to the Committee as requested the weight of each lot of farmers' stock peanuts received on such basis on a form furnished by the Committee. However, handlers who acquire seed peanut residuals from their custom shelling of uninspected (farmers' stock) seed peanuts or from another sheller or producer who has or has not signed the marketing agreement shall hold and/or mill such residuals separate and apart from other receipts or acquisitions of the handler, and such residuals which meet Outgoing Quality Regulation requirements may be disposed of by sale to human consumption outlets, and any portion not meeting such requirements shall be disposed of by sale as peanuts failing to meet human consumption requirements pursuant to paragraph (i) of the Outgoing Quality Regulation (§998.200). Seed peanuts, produced under the auspices of the State agency, which contain up to 3 percent damaged kernels and are free from visible *Aspergillus flavus*, may be stored and shelled with Segregation I seed peanuts which are also produced under the auspices of the State agency.

(f) *Oilstock*. Handlers may acquire for disposition to domestic crushing or export to countries other than Canada and Mexico farmers' stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption. The provision of §998.31 of the marketing agreement restricting acquisitions of such peanuts to handlers who are crushers is hereby modified to authorize all handlers to act as accumulators and acquire, from other handlers or non-handlers, Segregation 2 or 3 farmers' stock peanuts. Handlers may also acquire from other handlers shelled or fragmented peanuts originating from Segregation 2 or 3 farmers' stock or the entire mill production of shelled or fragmented peanuts from Segregation 1 farmers' stock or lots of shelled peanuts originating from Segregation 1 peanuts and which have been positive lot identified as specified in paragraph (d) of the Outgoing Quality Regulation (§998.200) which failed to meet the requirements for human consumption pursuant to paragraph (a) of

the Outgoing Quality Regulation (§998.200): *Provided*, That all such acquisitions are held separate from Segregation 1 peanuts acquired for milling or from edible grades of shelled or milled peanuts. Handlers may commingle the Segregation 2 and 3 peanuts or keep them separate and apart as provided in paragraph (j) of the Outgoing Quality Regulation (§998.200). Further disposition or commingling of such peanuts shall be only as provided in paragraph (l) of the Outgoing Quality Regulation (§998.200). Handlers who acquire farmers' stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption shall report such acquisitions as prescribed by the Committee. To be eligible to receive or acquire Segregation 2 or 3 farmers' stock peanuts and shelled or "fragmented" peanuts originating therefrom, a handler shall pay to the Area Association a fee for the purpose of covering cost of supervision of the disposition of such peanuts.

(g) *Segregation 2 and 3 control*. To assure the removal from edible outlets of any lot of peanuts determined by Federal or Federal-State Inspection Service to be Segregation 2 or Segregation 3, each handler shall inform each employee, country buyer, commission buyer, or like person through whom the handler receives peanuts of the need to receive and withhold all lots of Segregation 2 and Segregation 3 peanuts from milling for edible use. If any lot of Segregation 2 or Segregation 3 farmers' stock peanuts is not withheld but returned to the producer, the handler shall cause the Inspection Service to forward immediately a copy of the inspection certificate on the lot to the designated office of the handler and a copy to the Committee which shall be used only for information purposes.

(h) *Farmers' stock storage and handling facilities*. Handlers shall report to the Committee, on a form furnished by the Committee, all storage facilities or contract storage facilities which they will use to store acquisitions of current crop Segregation 1 farmers' stock peanuts, and all such storage facilities must be reported prior to storing of

any such handler acquisitions. Handlers shall also report to the Committee the locations at which they will receive or acquire current crop farmers' stock peanuts. All such storage facilities shall have reasonable and safe access to allow for inspection of the facility and its contents. All such storage facilities must be of sound construction, in good repair, and built and equipped so as to provide suitable storage and sufficient safeguards to prevent moisture condensation and provide adequate protection for farmers' stock peanuts. All breaks or openings in the walls, floors, or roofs of the facilities shall have been repaired so as to keep out moisture. Elevator pits and wells must be kept dry and free of moisture at all times. Insect control procedures must be carried out in such a manner as to prevent undesirable moisture in the storage facilities. Any conditions in warehouses, elevators, pits, transportation equipment, including trucks and hopper cars, and other farmers' stock handling equipment conducive to the growth or spread of *Aspergillus flavus* mold shall be corrected to the satisfaction of the Committee. The Committee may make periodic inspections of farmers' stock storage and handling facilities and farmers' stock peanuts stored in such facilities to determine if handlers are adhering to these requirements.

(i) *Shelled peanuts*. Handlers may acquire from other handlers, for remilling and subsequent disposition to human consumption outlets, shelled peanuts which originated from "Segregation 1 peanuts." Transactions made in this manner shall be reported to the Committee by both the buyer and the seller on a form provided by the Committee. Further disposition of any such peanuts acquired pursuant to this paragraph shall be regulated by paragraph (h)(1) of § 998.200 Outgoing quality regulation.

(j) *Inedible quality shelled peanuts for disposition to animal feed*. Handlers may receive or acquire from other handlers, for further milling and/or processing and subsequent disposition for use as domestic animal feed, shelled peanuts that fail to meet the requirements specified for human consumption in paragraph (a) of the Outgoing Quality Regulation (§ 998.200). Any lot of such peanuts received or acquired for such further disposition shall be positive lot identified and covered by a valid grade inspection certificate issued by a Federal or Federal-State Inspector. Transactions made in this manner shall be reported to the Committee by both the buyer and seller on a form provided by the Committee. Peanuts received and covered by a valid grade inspection certificate issued by a Federal or Federal-State apart from peanuts destined to human consumption outlets and further disposition shall be regulated as provided for in paragraph (m)(2) of the Outgoing Quality Regulation (§ 998.200).

[53 FR 20291, June 3, 1988, as amended at 53 FR 26757, July 15, 1988; 55 FR 34511, Aug. 23, 1990; 59 FR 36354, July 18, 1994; 60 FR 36208, July 14, 1995]

§ 998.200 Outgoing quality regulation for 1995 and subsequent crop peanuts.

The following modify or are in addition to the peanut marketing agreement restrictions of § 998.32 on handler disposition of peanuts:

(a) *Shelled peanuts*. No handler shall ship or otherwise dispose of shelled peanuts for human consumption unless such peanuts are Positive Lot Identified and certified as meeting the following requirements: